

CHAPTER 18
CONDUCT OF EMPLOYEES
[Prior to 11/5/86, Merit Employment Department [570]]

581—18.1(19A) General. Employees shall fulfill to the best of their ability the duties and responsibilities of the position to which appointed. In carrying out their official job duties, employees shall work for the appointing authority's efficient and effective delivery of services. Employees shall perform assigned responsibilities in such a manner as neither to endanger their impartiality nor to give occasion for distrust or question of their impartiality.

581—18.2(68B) Selling of goods or services. Employees in state regulatory agencies shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the agency of employment except as authorized by the appointing authority in accordance with Iowa Code section 68B.4 and the provisions of this rule.

18.2(1) Definitions.

"Agency or agency of state government" means one of the state executive branch agencies, including regulatory agencies as defined in Iowa Code sections 68B.2(1) and 68B.2(2).

"Compensation" means any money, thing of value, or financial benefit conferred in return for the sale of goods or services rendered or to be rendered.

"Employee" means a nontemporary employee of an executive branch regulatory agency of state government. The provisions of this rule shall also apply to the spouse and minor children of such an employee, a firm in which the employee is a partner, and any corporation in which the employee, either directly or indirectly, holds 10 percent or more of the stock. Employee, as used in this rule, shall not mean an independent contractor, or an official in a regulatory agency who is (1) elected or appointed to serve on a board, commission, or elective office; (2) a department head; or (3) any other individual who by law is appointed by the governor.

"Regulatory agency" means the department of agriculture and land stewardship, department of employment services, department of commerce, department of public health, department of public safety, department of education, board of regents, department of human services, department of revenue and finance, department of inspections and appeals, department of personnel, public employment relations board, department of transportation, civil rights commission, department of public defense, and department of natural resources.

"Sale of goods or services" means the receipt of compensation by an employee for providing goods or services. For purposes of this rule, the sale of goods or services shall not apply to outside employment activities that constitute an employer-employee relationship.

18.2(2) Requests for agency consent. An employee's request for an agency's consent to the sale of goods or services shall be obtained in the following manner:

a. A written request for the sale of goods or services shall be filed with the appointing authority at least 20 calendar days in advance of the proposed sale of goods or services. A request shall not be considered filed until all information specified below is received.

b. The request shall include, but not be limited to, the following:

- (1) The prospective recipient(s) of the goods or services and the recipient's relationship to the agency's regulatory authority;
- (2) Anticipated date(s) of delivery of the goods or services;
- (3) Description of the goods or services;
- (4) Approximate amount and form of compensation; and
- (5) Statement by the employee explaining why the proposed sale of goods or services will not create a conflict of interest.

c. Consent or denial of the request shall be issued in writing by the appointing authority within 14 calendar days following the date the request was filed. If the request is denied, the appointing authority shall state the reason(s) for the denial and the employee's right to grieve the decision in accordance with rule 581—12.1(19A).

d. If the decision is grieved, the employee shall be required to substantiate, as part of the grievance, why the proposed sale of goods or services will not create a conflict of interest within the meaning of Iowa Code section 68B.4.

e. Approved requests are valid only to the extent that all relevant facts have been disclosed and the relevant facts under which consent was granted remain unchanged.

f. Approved requests are subject to immediate revocation at any time with written notice by the appointing authority to the requester.

g. Requests and responses are public records within the meaning of Iowa Code section 22.1 and are open for public examination.

18.2(3) *Agency guidelines.* Agencies that are subject to this rule shall develop written guidelines concerning the selling of goods or services by their employees. The guidelines shall be consistent with the provisions of this rule and shall include, but not be limited to, the following:

1. A description of the regulatory authority of the agency and the types of individuals, associations, or corporations that are subject to this authority;

2. The conditions for granting consent as provided in Iowa Code section 68B.4.

3. A procedure for submitting requests to sell goods or services consistent with subrule 18.2(2); and

4. The name or position of the management authority who will review and approve or deny such requests.

The guidelines shall be made known and available to employees throughout the agency through well-publicized means.

18.2(4) *Expressly prohibiting or permitting classes of sales.* An agency may adopt and amend rules which identify sales of goods or services that are expressly prohibited (or permitted) by the agency, based on the agency's conclusion that the sales do (or do not), as a class, constitute a conflict of interest. Classes of sales that are expressly permitted by the agency shall not require individual requests and approval as provided in subrule 18.2(2) unless there are unique factors that otherwise present a conflict of interest.

18.2(5) *Effect of other laws.* Neither this rule nor any consent provided under this rule constitutes consent for any activity which would constitute a conflict of interest at common law or which would violate any applicable statute or rule. Despite consent under this rule, the sale of goods or services to someone subject to the jurisdiction of the agency may violate the gift, bribery, or corruption laws of the state of Iowa. It is the responsibility of the employee to ensure compliance with all applicable laws and to avoid both impropriety and the appearance of impropriety.

This rule is intended to implement Iowa Code section 68B.4.

581—18.3(68B) *Outside employment or activity.* Employees shall not engage in any outside employment, including outside employment with another department of the state of Iowa, a political subdivision of the state, or the federal government, or activity which is or has the potential to be in conflict with the employees' job duties and responsibilities.

"Conflict" means a situation created where an employee receives a personal gain or advantage as a result of employment with an agency of state government.

18.3(1) *Determination of conflict.* The management authority shall reasonably determine and make known in writing whether a particular outside employment or activity creates or could create an unacceptable conflict with an employee's job duties and responsibilities. In making the determination, the management authority shall give consideration to, but not be limited to, the following:

a. Involves private gain or advantage by the use of the state's time, facilities, equipment and supplies; or, the use of the badge, uniform, prestige, or influence of the employee's job.

b. Involves the receipt of, promise of, or acceptance by an employee of any money or other consideration from anyone, other than the state for the performance of any act that the employee would be required to perform as a part of regular duties or during hours of state employment.

c. Involves the performance of an act or work which may later be subject, directly or indirectly, to control, inspection, review, audit, or enforcement by the employee or the management authority for which the employee performs state duties or responsibilities.

18.3(2) *Result of conflict.* If the management authority reasonably determines that the outside employment or activity creates or could create an unacceptable conflict, the employee shall cease the outside employment or activity. Failure to do so may result in disciplinary action, up to and including discharge.

581—18.4(19A) Performance of duty. Employees shall, during scheduled hours of work, devote their full time, attention and efforts to assigned duties and responsibilities subject to the Iowa Code and the Iowa Administrative Code. Continued employment is dependent upon the satisfactory performance of assigned duties and responsibilities, i.e., "meets job expectations," as well as appropriate conduct as provided for in these rules and the work rules of their agency of employment. This rule shall not be interpreted to prevent the separation or reduction of employees because of the lack of funds or work, reorganization done in accordance with these rules, or the provisions of the Iowa Code or a collective bargaining agreement.

581—18.5(19A) Prohibitions relating to certain actions by state employees.

18.5(1) Employees shall not be prohibited from disclosing any information to members or employees of the general assembly, or to any other public official or law enforcement agency if the employee believes the information is evidence of the violation of a law, rule, mismanagement, a gross abuse of funds, an abuse of authority, or a substantial and specific danger to public health or safety. An employee need not inform the appointing authority about such disclosure unless the employee presented the information as the official position of the appointing authority.

a. This subrule does not apply to the disclosure of information prohibited by statute.

b. Agencies are prohibited from any reprisals in the form of a disciplinary action or failure to appoint or promote an employee who discloses information, fails to inform the appointing authority of the disclosure of information, or who declines to contribute to a charity or organization. Reprisals for disclosing information shall be subject to civil action.

18.5(2) Employees may contact the office of the Iowa citizens' aide at 1-800-358-5510 to report violations of this rule.

These rules are intended to implement Iowa Code section 19A.9 and Iowa Code section 68B.4.

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